

**Effective 5/13/2014**

**Part 3**  
**Merit Officer Conditions of Employment**

**17-30a-301 Title.**

This part is known as "Merit Officer Conditions of Employment."

Enacted by Chapter 366, 2014 General Session

**17-30a-302 Examinations -- How prepared, conducted, and graded -- Notice of examination.**

- (1)
  - (a) If necessary, the commission shall give a competitive examination to determine the qualification of an applicant for a position as a merit system officer.
  - (b) The commission shall ensure that an examination:
    - (i) is practical in character; and
    - (ii) relates to matters that fairly test the mental and physical ability and knowledge of an applicant to discharge the duties of the position.
  - (c)
    - (i) Except as provided in Subsection (1)(c)(ii), the commission shall direct the preparation, administration, and grading of the examination.
    - (ii) The commission may direct an impartial special examiner to prepare, administer, and grade the examination on behalf of the commission.
- (2)
  - (a) The commission shall publish notice of an examination internally and to the public.
  - (b)
    - (i) The commission shall design the notice described in Subsection (2)(a) to encourage an applicant to participate in competitive appointments.
    - (ii) The notice shall set forth minimum qualifications, pay scale, physical and educational requirements, and passing grades.
  - (c) The commission or the commission's designee shall promptly notify a person of the person's final grade.

Enacted by Chapter 366, 2014 General Session

**17-30a-303 Disqualification of applicant for examination -- Appeal to commission.**

- (1) In accordance with this section and rules adopted by the commission, an applicant may be disqualified if the applicant:
  - (a) does not meet minimum qualifications;
  - (b) has been convicted of a criminal offense inimical to the public service or involving moral turpitude;
  - (c) has practiced or attempted deception or fraud in the application or examination process or in securing eligibility for appointment; or
  - (d) is not a citizen of the United States.
- (2) If an applicant is rejected, the applicant shall be promptly notified.
- (3) At any time prior to the date of examination, an applicant may correct a defect in the applicant's application.

- (4) An applicant may file a written appeal regarding the application process with the commission at any time before the date of the exam.

Enacted by Chapter 366, 2014 General Session

**17-30a-304 Preservation and inspection of examination papers.**

- (1)
  - (a) Examination papers and related documents are the property of the commission and the commission shall preserve them until the expiration of the eligible register for which an examination is given.
  - (b) Preservation of examination papers and related documents after the time period described in Subsection (1)(a) is subject to a retention schedule adopted by the commission.
- (2)
  - (a) Except as provided in Subsection (2)(b), examination papers and related documents are not open to public inspection without a court order.
  - (b) An applicant may inspect the applicant's own papers at any time within 30 days after the commission sends notice of the applicant's grade.
  - (c) The appointing authority may inspect the papers of any eligible applicant certified for appointment.

Enacted by Chapter 366, 2014 General Session

**17-30a-305 Preparation and expiration of eligible appointment register.**

- (1) Upon completion of an examination, the commission shall prepare and adopt an eligible appointment register containing the names of applicants receiving a passing grade ranked in the order of grades earned, beginning with the highest.
- (2)
  - (a) An eligible appointment register shall expire not later than two years after the date of the examination unless the commission, for good reason, extends the time not to exceed one additional year.
  - (b) If the commission adopts a new eligible appointment register, a previous appointment register for the same class or position is cancelled.

Enacted by Chapter 366, 2014 General Session

**17-30a-306 Appointments from eligible appointment register -- Failure to accept appointment.**

- (1) If the appointment of a peace officer is an appointment based on an examination, the appointing authority shall request that the commission certify eligible applicants for each position.
- (2)
  - (a) The commission shall certify, to the appointing authority, a number of names equal to three times the number of allocations being filled.
  - (b) The names of the applicants shall be ranked in order of examination score, beginning with the name of the applicant standing highest on the eligible appointment register.
- (3) The appointing authority shall select a person described in Subsection (2)(b) and appoint one person to each open position.
- (4) If a certified applicant fails to accept a proffered appointment, the applicant:

- (a) may request in writing that the applicant be able to retain the applicant's place on the eligible appointment register; and
- (b) shall provide reasons sufficient, in the judgment of the commission, to justify the applicant's failure to accept.

Enacted by Chapter 366, 2014 General Session

**17-30a-307 Probationary period of appointment.**

- (1) A peace officer appointed under Section 17-30a-306 shall serve a probationary period of 12 consecutive months, during which time the officer may be discharged at the sole discretion of the appointing authority.
- (2)
  - (a) At the request of the appointing authority and with the approval of the commission, the probationary period may be extended beyond 12 months for an officer who has not yet satisfactorily completed an approved peace officer training program and received a certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.
  - (b) At the request of the appointing authority and with the approval of the commission, the probationary period of an officer may be extended beyond 12 months for good cause shown.
  - (c) Service under a temporary or part-time appointment is not considered a part of the probationary period.
- (3) If a peace officer is retained in a position after the expiration of the probationary period, the officer's retention constitutes appointment to merit status.
- (4) A person removed from employment during the probationary period may not be placed on the eligible register again without having passed another regular examination.
- (5) The commission may adopt rules governing probationary periods for other appointments, including the appointing or transfer of a peace officer from another jurisdiction.

Enacted by Chapter 366, 2014 General Session

**17-30a-308 Vacancies -- Positions requiring special qualifications -- Competition suspended -- Promotion -- Promotional register.**

- (1) In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional, or expert character, and upon satisfactory evidence that competition is impracticable and the position can best be filled by the selection of some designated person of recognized attainments, the commission may, after a public hearing and by unanimous vote, suspend competition regarding that position.
- (2) The commission shall report a suspension under Subsection (1) in the commission minutes, together with the reason for suspension.
- (3) With the exception of an appointment made in accordance with a commission rule adopted under Subsection 17-30a-203(1)(b)(i)(H), a department shall fill a supervisor vacancy in the merit system classification by promotion insofar as possible.
- (4)
  - (a) A department shall make a promotion only after an open competitive examination, admission to which shall be limited to merit system officers.
  - (b) An examination process described in Subsection (4)(a) shall include consideration of the seniority and competence of the peace officer to perform the duties required in the position for which application is made.

- (c) The seniority element of the examination may not exceed 40% of the entire examination score.
- (5)
  - (a) After a promotional examination, the commission shall prepare a promotional register that shall take precedence over any previously existing register.
  - (b) The certified promotional register shall consist of three names for the initial vacancy and one more name for each additional vacancy, ranked in the order of the examination score, beginning with the highest scoring applicant.

Enacted by Chapter 366, 2014 General Session

**17-30a-309 Transfer and reassignment.**

- (1) A merit system officer may be transferred, without examination, from one position to a similar position in the same class and grade within the department.
- (2) A merit system officer may be voluntarily reassigned, including to another class and grade, in accordance with rules adopted by the commission.

Enacted by Chapter 366, 2014 General Session

**17-30a-310 Temporary and part-time appointment.**

- (1) A department may appoint an employee to a temporary appointment for a period not exceeding 120 days within any 12 month period.
- (2) A temporary employee is not a merit system officer and may be appointed without examination.
- (3) A department may appoint an employee to a part-time appointment for a period not to exceed 29 hours per week.
- (4) A part-time employee is not a merit system officer and may be appointed without examination.

Enacted by Chapter 366, 2014 General Session

**17-30a-311 Temporary layoffs -- Reappointment register.**

- (1) Subject to Subsections (2) and (3), and if necessary, because of lack of funds or work, a department may temporarily lay off a merit system officer.
- (2) A department that lays off a merit system officer under Subsection (1) shall lay off the officer according to the seniority of the officers of the class of positions affected, following the process prescribed by commission rule.
- (3) A department shall lay off a person serving under temporary or part-time appointment before a merit system officer.
- (4)
  - (a) If a merit system officer is laid off, the department shall place the officer on a reappointment register to be reappointed in the inverse order in which the officer is laid off.
  - (b) The register described in Subsection (4)(a) takes precedence over all eligible reappointment registers.

Enacted by Chapter 366, 2014 General Session

**17-30a-312 Reappointment after temporary leave.**

- (1)

- (a) Consistent with rules adopted by the commission and within the appointing authority's discretion, a merit system officer may be granted a temporary leave of absence outside the department.
  - (b) Leave granted under Subsection (1)(a) is without pay and for a period not to exceed one year.
  - (c) In accordance with applicable law or ordinance, the appointing authority may reappoint the officer without examination at the end of the leave.
- (2)
- (a) In the event a merit system officer is elected sheriff or is appointed to any merit-exempt position in the department, the officer's merit system status shall automatically be suspended for the period of time the officer remains sheriff or in a merit-exempt appointment.
  - (b) At the end of the period of election to sheriff or suspension of merit status under Subsection (2)(a), the officer shall be returned to the officer's former position as a merit system officer without examination.
- (3) The appointing authority shall authorize any leave required by federal law.

Enacted by Chapter 366, 2014 General Session

**17-30a-313 Vacation, sick leave, and other benefits.**

For merit system officers, provisions regarding vacation, sick, other leave, or any other employment condition or benefit not covered by this chapter shall be established by:

- (1) applicable law;
- (2) county ordinance or regulation; or
- (3) police interlocal entity rule or regulation.

Enacted by Chapter 366, 2014 General Session

**17-30a-314 Prohibitions against political activities -- Penalties.**

- (1)
- (a) An officer, employee, or member of a governing body of a county or a police interlocal entity, whether elected or appointed, may not directly or indirectly coerce, command, or advise a merit system officer to pay, lend, or contribute part of the officer's salary or compensation or anything else of value to a party, committee, organization, agency, or person for political purpose.
  - (b) A county or police interlocal entity officer, employee, or member of a governing body, whether elected or appointed, may not make or attempt to make a merit system officer's personnel status dependent upon the officer's support or lack of support for a political party, committee, organization, agency, or person engaged in a political activity.
- (2) Subsection (1) does not apply to political speeches or use of mass communications media for political purposes by a person where a merit system officer is present, unless the purpose and intent of the speaker is to violate this section with direct respect to those merit system officers.
- (3)
- (a) Except as provided in Subsection (3)(b), a merit system officer may not engage in a political activity or solicit political contributions from merit system officers during the hours of employment, or use employer resources at any time for political purposes.
  - (b) Subsection (3)(a) does not preclude a voluntary contribution by a merit system officer to the party or candidate of the officer's choice.

Enacted by Chapter 366, 2014 General Session

